

UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY	
Caption in compliance with D.N.J. LBR 9004-1(b)	
BODNER LAW PLLC Jonathan S. Bodner, Esq. 55 Cherry Lane, Suite 101 Carle Place, New York 11514 Tel: (516) 444-3923 -and- RAY QUINNEY & NEBEKER P.C. Michael R. Johnson, Esq. David H. Leigh, Esq. 36 South State Street, Suite 1400 Salt Lake City, Utah 84111 Tel: 801.323.3326 <i>Attorneys for BV Waco Central Texas Marketplace, LLC</i>	
In Re:	Chapter 11
BED BATH & BEYOND INC., et al.,	Case No: 23-13359 (VFP)
Debtors.	(Jointly Administered)

**LIMITED OBJECTION TO ASSIGNMENT OF LEASE AND TO PROPOSED CURE
COSTS /RESPONSE TO DOCKET NO. 1157/**

BV Waco Central Texas Marketplace, LLC (“BV Waco”), by its attorneys, submit this limited objection to the above-captioned debtors (the “Debtors”) *Notice of Assumption of Certain Unexpired Leases* (the “Notice”) [Docket No. 1157] and, in particular, to the proposed cure costs set forth by the Debtors for assumption of BV Waco’s lease.

In support hereof, BV Waco states as follows:

1. On July 3, 2023, BV Waco filed its *Limited Objection and Reservation of Rights by BV Waco Central Texas Marketplace, LLC to the Proposed Cure Amounts Set Forth in the Debtor’s Notice to Contract Parties to Potentially Assume Executory Contracts and Unexpired Leases* (the “BV Waco Limited Objection”) [Docket No. 1173].

2. The BV Waco Limited Objection is incorporated herein by this reference.
3. As explained in the BV Waco Limited Objection, as of July 3, 2023, the amount of \$39,345.89 is due and owing under the BV Waco Lease, excluding attorneys' fees and costs (the "Current Cure Amount").
4. The Notice indicates that the BV Waco Lease is to be assumed and then assigned to Burlington Coat Factory.
5. The Notice incorrectly indicates that the Current Cure Amount is only \$30,787.00.
6. BV Waco objects to assumption and assignment of the BV Waco Lease unless, in conjunction therewith, all monetary defaults are cured under the lease. As set forth above, the amount currently due and owing under the lease, excluding attorneys' fees and costs, is \$39,345.89.
7. Further, from and after August 1, 2023, additional amounts will be due under the BV Waco Lease.
8. Finally, the BV Waco Lease contains provisions pursuant to which the tenant is responsible for payment of CAM and property tax reconciliations for prior lease periods. Here, it is possible that there will be additional CAM and property tax obligations for periods that relate to the pre-assumption period (including for periods that relate to the pre-petition period).

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9. Any Order authorizing assumption of the BV Waco Lease should require, in addition to payment of all amounts current due under the lease, a requirement that the Assignee be responsible for any reconciled CAM and property tax charges, even if those reconciled charges relate to periods prior to the date of assumption.

Respectfully submitted,

Dated: July 7, 2023

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